

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Plaintiff,

CR 02-405-RE

vs.

OPINION AND ORDER

ANTONIO IRVING BENJAMIN,

Defendant.

Kathleen L. Bickers
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Portland, Oregon 97204

Attorney for Plaintiff

Antonio Irving Benjamin
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Defendant Pro Se

REDDEN, Judge:

The matter before the court is defendant Antonio Irving Benjamin's motion to

reduce sentence. Defendant relies on 18 U.S.C. § 3582(c) and Federal Rule of Criminal Procedure 35 to support his motion.

Under 18 U.S.C. § 3582(c), a court may modify a term of imprisonment only if (1) it receives a motion from the Director of the Bureau of Prisons (18 U.S.C. § 3582(c)(1)(A)); or (2) the modification is permitted under Rule 35 of the Federal Rules of Criminal Procedure (18 U.S.C. § 3582(c)(1)(B)).

Neither the statute or the rule support defendant's motion. No motion for modification has been filed by the Director of the Bureau of Prisons under 18 U.S.C. § 3582(c)(1)(A). As to 18 U.S.C. § 3582(c)(1)(B), Rule 35 of the Federal Rule of Criminal Procedure 35 allows for a reduction of sentence only if (a) the court is correcting a clear error within seven days of sentencing; or (b) the government makes a motion to reduce defendant's sentence for substantial assistance to the government within one year of sentencing.

For the reasons discussed above, defendant's motion (doc. 30) for reduction of sentence is DENIED. All pending motions are DENIED as moot.

IT IS SO ORDERED.

Dated this 5th day of January, 2006.

/S/ James A. Redden
James A. Redden
United States District Judge